

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
EASTERN DIVISION**

DANNY L. DAVIS

PLAINTIFF

VERSUS

CAUSE NO. 1:09CV00048-DAS

MICHAEL J. ASTRUE

DEFENDANT

ORDER DISMISSING CASE WITHOUT PREJUDICE

Before the court is the plaintiff's motion to dismiss this case without prejudice and to refund "any unearned filing fees." In support of this motion, the plaintiff simply states that he has decided not to pursue his claim. The defendant has not responded to the motion. The court has given due consideration to the motion and the record and is of the opinion that the plaintiff's request to dismiss this action without prejudice should be granted. However, the plaintiff's request for a refund of the filing fee is wholly unsupported and shall be denied. The obligation of a filing fee attaches at the time of filing, and the obligation remains despite the disposition of the case. *See Hatchet v. Nettles*, 201 F.3d 651, 654 (5th Cir. 2000).

THEREFORE, IT IS ORDERED that the plaintiff's motion to dismiss this action without prejudice is **GRANTED**; however, his request for a refund of the filing fee is hereby **DENIED**.

This, the 7th day of October, 2009.

/s/ David A. Sanders
U. S. MAGISTRATE JUDGE